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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,667	09/04/2003	Kenneth Gould	2816-026	5369
22208 7590 02/25/2009 The Marbury Law Group, PLLC 11800 SUNRISE VALLEY DRIVE SUITE 1000 RESTON, VA 20191				
EXAMINER				
JAKOVAC, RYAN J				
ART UNIT		PAPER NUMBER		
2445				
MAIL DATE		DELIVERY MODE		
02/25/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/654,667

**Applicant(s)**

GOULD ET AL.

**Examiner**

RYAN J. JAKOVAC

**Art Unit**

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed 12/11/2008 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claims 18-35 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(A) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-19, 21, 23-26, 28, and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2007/0214083 to Jones et al (hereinafter Jones) in view of US 2001/0044818 to Liang

Regarding claim 18, 25 teaches a system for providing data filtering from a cable modem termination system (CMTS) in a cable data network comprising:

the CMTS, wherein the CMTS comprises a first network interface, a second network interface (Jones, fig. 1), a data gateway agent (Jones, fig. 1-2), and wherein the CMTS is configured for obtaining a packet count from a packet counter, wherein the packet count is determined from at least one of a downstream packet count indicative of packets received via the first network interface and sent to a subscriber device via the second network interface and an upstream packet count indicative of the packets received from the subscriber device via the second network interface for transmission via the first network interface (Jones, [0072], the services granted to the subscriber terminal are monitored including counting the number of packets transmitted or received.); and

a data store accessible to the data gateway agent for storing a selected data transfer rule (Jones, [0072], the policy decision point stores rules about the data transfer. A threshold value is used and monitored regarding the subscriber packet transmission. See also [0035-0036].), wherein a selected data transfer rule comprises a URL filtering criteria selected by a subscriber (Liang, [0024], user specifies which URLs are acceptable or unacceptable.), and

wherein the data gateway agent receives the packets via the first network interface prior to receipt of the packets by the packet counter, accesses the data store (Jones, [0035-0036],

[0072], the subscriber terminal monitors packet count and based on a threshold of data transfer enacts rules regarding the subscriber.), uses the URL filtering criteria to make a filtering determination with respect to the packet (Liang, abstract, URLs are filtered to the client based upon whether the URLs are acceptable or unacceptable.), wherein the filtering determination is selected from the group consisting of allowed and blocked, and if the packet is allowed, then forwards the packet to the packet counter for counting (Jones, if the subscriber is eligible to receive data, the packets are counted. See at least [0035-0039], [0072].), and if the packet is blocked then applies a corrective measure to the packet (Jones, [0035-0040], traffic is redirected from the subscriber if they do not meet the threshold necessary for data transfer.).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the URL filtering criteria as taught by Liang with the system of Jones in order to identify and block unacceptable web content (Liang, abstract.) as well as to allow a user to filter websites by content (Liang, [0024].).

Regarding claim 19, 26, the combination of Jones and Liang teaches the system of claim 18, 25, wherein the packet counter is located in the CMTS (Jones, fig. 1-2. See also [0072].).

Regarding claim 21, 28, the combination of Jones and Liang teaches the system of claim 18, 25, wherein the corrective measure is selected from the group consisting of discarding the packet before counting the packet by the packet counter (Jones, [0035-0040], traffic is redirected (i.e. discarded from subscriber device.); sending the packet to the packet counter and reducing the packet count by one; and before counting the packet by the packet counter, transmitting to

the subscriber a notification that the packet has been blocked according to the URL filtering criteria and awaiting a selection by the subscriber whether to forward the packet or discard the packet.

Regarding claims 23, 24, 30-31, the combination of Jones and Liang teaches the system of claim 18, wherein the CMTS further comprises a billing agent and wherein the billing agent is configured to receive a subscriber count trigger and to transmit a count message to the subscriber comprising a current packet count upon the occurrence of the subscriber count trigger (Jones, [0083-0087]. See also [0037-0038] which discloses a web page notification upon meeting a threshold value (i.e. subscriber count trigger).).

Regarding claim 32, 33, the combination of Jones and Liang teaches the system of claim 18, 25, wherein the filtering determination that the packet is blocked comprises comparing a URL of the packet to at least one component of a blocked URL (Liang, [0002-0006], requested URLs are compared to a block list.), wherein the at least one component is selected from the group consisting of a name of a protocol required to access the resource, a domain name that identifies a source computer, and a file location descriptor (Liang, [0002-0006], blocked URLs.).

Regarding claims 34-35, the combination of Jones and Liang teaches the system of claim 18, 25, wherein the URL filtering criteria comprise URL categories and wherein each URL category comprises at least one URL (Liang, [0024], URL cache populated with list of unacceptable websites.).

5. Claims 20, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones.

Regarding claim 20, 27, Jones teaches the system of claim 18, 25. Jones does not expressly disclose wherein the packet counter is located in the subscriber device, however, placing the packet counter in the subscriber device is an obvious variation of Jones and therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use packet counters in the subscriber device. See *KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385 (2007).

6. Claims 22, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Liang and further in view of US 2004/0006621 to Bellinson et al (hereinafter Bellinson).

Regarding claim 22, 29, the combination of Jones and Liang teaches the system of claim 18, 25 wherein filtering determination that the packet is allowed comprises comparing a URL of the packet to at least one component of an allowed URL (Bellinson, [0010-0011], website is compared to URL's on the allow-block list. If the website is referenced on the list and is an allowed site the web page is displayed.), wherein the at least one component is selected from the group consisting of a name of a protocol required to access the resource, a domain name that identifies a source computer, and a file location descriptor (Bellinson, [0010-0011], URL comparison.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine filtering by the allow-block list as taught by Bellinson with the system of the combination of Jones and Liang in order to be able to specify certain allowable websites for user access (Bellinson, [0010-0011]).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Larry D Donaghuc/

Primary Examiner, Art Unit 2454